IN THE HIGH COURT OF BOMBAY AT GOA
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CIVIL REVISION APPLICATION NO. 217 OF 2002

Shri P. A. Raghunathan,
(Erstwhile) Airport
Director, Dabolim, Goa. ... Petitioner.

Versus

Sharad Parshuram Shetye,
businessman, r/o Flat No.
C-11, 2nd Floor, Karma
Residential Enclave,
Vasco da Gama. ... Respondent.

Shri S. G. Dessai, Senior Advocate with Shri Arun B. D'Sa, advocate for the petitioner.

Shri E. O. Mendes, advocate for the respondent.

CORAM : F. I. REBELLO, J.

DATE : 24th July, 2003.

ORAL JUDGMENT

Heard parties. The record would show that there was ex parte decree against the petitioner herein and his erstwhile employee, Airport Authority of India. An application was moved under Order 9 Rule 13 of the C.P.C. for setting aside the said ex parte decree alongwith an application for condonation of delay. That seems to have been rejected, against which the Airports Authority of India has preferred an appeal, which is presently pending before the District Judge, South Goa.

2. In the meantime the decree-holder applied for execution of the decree. The decree against the petitioner Airports Authority of India is joint and several. The Airports Authority of India have deposited the decretal amount before the Executing Court. The District Court

before whom the appeal under Order 9 Rule 13 is pending has stayed the execution against the Airports Authority of India.

The petitioner herein applied to the Executing Court not to execute the decree and filed an application that the decree should not be executed against him. That has been rejected by the impugned Order. Hence this Civil Revision Application.

3. It is not necessary to go into the various aspects of the matter. Suffice it to say that the respondent for the moment has been secured for the entire amount which has been deposited by the Airports Authority of India. In these circumstance, even if the petitioner herein has not preferred appeal against rejection of the application for condonation of delay under Order 9 Rule 13, before the Appellate Court under Order 43, the ends of justice would be met if the proceedings against the petitioner herein are also stayed till the appeal preferred by the Airports Authority of India is heard and finally disposed of or such other orders as are passed by the Court of Appeal.

In the light of that the impugned Order dated 13th June, 2002, is set aside. The Executing Court is directed not to proceed to execute the decree against the petitioner

herein till the hearing and final disposal of the Appeal pending before the District Court as filed by the Airports Authority of India.

Civil Revision Application disposed of accordingly.

F. I. REBELLO, J.

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